

JUN 15 2004

ATTEST *Debra S. Stewart*
FOR THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

JUN 15 2004

FILED
CLERK'S OFFICE

DOCKET NO. 1407

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

**IN RE PHENYLPROPANOLAMINE (PPA) PRODUCTS LIABILITY
LITIGATION**

Jay Spears v. Bayer Corp., et al., W.D. Missouri, C.A. No. 4:03-1151

**BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN,
BRUCE M. SELYA, D. LOWELL JENSEN, J. FREDERICK MOTZ,
ROBERT L. MILLER, JR., AND KATHRYN H. VRATIL, JUDGES OF THE
PANEL**

TRANSFER ORDER

Before the Panel is a motion brought, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiff in one Western District of Missouri action (*Spears*). Movant asks the Panel to vacate an order conditionally transferring *Spears* to the Western District of Washington for inclusion in the centralized pretrial proceedings occurring there in this docket before Judge Barbara Jacobs Rothstein. Defendant Bayer Corp. supports transfer of the action.

On the basis of the papers filed and hearing session held, the Panel finds that *Spears* involves common questions of fact with actions in this litigation previously transferred to the Western District of Washington, and that transfer of the action to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The Panel is persuaded that transfer of *Spears* is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. The Panel held that the Western District of Washington was a proper Section 1407 forum for actions brought by persons allegedly injured by products containing Phenylpropanolamine (PPA) – a substance which, until it became the subject of a November 2000 public health advisory issued by the Food and Drug Administration, was used as an ingredient in many nasal decongestants and weight control products. *See In re Phenylpropanolamine (PPA) Products Liability Litigation*, 173 F.Supp.2d 1377 (J.P.M.L. 2001).

Plaintiff premised much of his opposition to transfer on the argument that federal jurisdiction was lacking in his action, and he urged the Panel not to order transfer before his motion to remand to state court was resolved by the Missouri court. We note that this objection has now been mooted by the Missouri court's March 29, 2004 order denying plaintiff's motion to remand *Spears* to state court.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, this action is transferred to the Western District of Washington and, with the consent of that court, assigned to the Honorable

Barbara Jacobs Rothstein for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
OFFICE OF THE CLERK

BRUCE RIFKIN
CLERK

WILLIAM KENZŌ NAKAMURA
U.S. COURTHOUSE, SUITE 215
SEATTLE, WASHINGTON 98104

June 21, 2004

Ms. Patricia L. Brune, Clerk
United States District Court
2710 Charles Evans Whittaker
United States Courthouse
400 East Ninth Street
Kansas City, MO 64106

IN RE: MDL 1407 (PPA) PHENYLPROPANOLAMINE PRODUCTS LIABILITY LITIGATION

Dear Clerk:

Enclosed is a certified copy of the Transfer Order (C/O Tagalong) entered by the Judicial Panel on Multidistrict Litigation. The order became effective on 6/18/04. We have assigned an individual Western District of Washington (WAW) case number to your case to be transferred to us as listed below.

Please send us your file along with a certified copy of your docket entries. When you send your files, please refer to the WAWD civil action number. If you are a CM/ECF court you may provide a copy of the case by submitting documents in pdf form on a disc along with a certified copy of the docket sheet. Please do not email a login and password to access the case.

Case Title	Original Case Number	WAW Case Number
Jay Spears v. Bayer Corp., et al	MOW 4: 03-1151	2: 04-1423

Sincerely,

BRUCE RIFKIN, CLERK

Ayubelvi Ellington
Deputy Clerk
206-553-4080 ext. 2159